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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,504	03/31/2004	Jewel Tracy	20031124-001	6464

7590 12/10/2008  
Roger L. Belfay  
829 Tuscarora Avenue  
Saint Paul, MN 55102

EXAMINER
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LANDRUM, EDWARD F

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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12/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/814,504	<b>Applicant(s)</b> TRACY, JEWEL	
	<b>Examiner</b> Edward F. Landrum	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10/14/2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 6-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sanitary covering material being in direct contact with the floor must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. The disclosure is objected to because of the following informalities: It is clear based on the drawings and the overall design of both species of the foot frame device that the sanitary covering material is never intended to come into direct contact with the floor. Figures 1-3 show a collection mechanism, and Figure 3 clearly shows that the frame (5) has a bottom side that sits between the sanitary covering material and the floor. Figures 4-6 clearly show a stop in the guide slots (8) that limit dimensions of the sanitary area to be solely on the bottom portion of the frame (5). Figure 6 shows the same thing as Figure 3 of the first embodiment. The last line of page 1 and the first two lines of page 2 of the detailed description are therefore incorrect and misleading. This is especially true as line 2 of page 2 makes it sound as if applicant really intends to be talking about the floor surface of the foot frame and not the floor surface that the foot frame rests on.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 2, and 6-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Stating that the sanitary covering material

makes direct contact with the floor is new matter as the specification never states this is the case only that a material could be used that adheres to the floor. Furthermore, based on the specification and drawings it does not appear that the sanitary covering is ever intended to contact anything but the frame of the device.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7, 9, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oats '513 (U.S Patent No. 4,926,513) in view of Heppner (U.S Patent No. 4,212,217) in further view of Van Wagner (U.S Patent No. 1,891,629), hereinafter Wagner.

Regarding claims 1 and 9, Oats '513 teaches (see Figures 1-2) a frame (100), having four sides, for placement on a floor to define a sanitary area, within the planar areas defined by the frame, and help guide the sanitary covering material through the frame. Steiner further teaches the dispensing device (110 and 110') is above the frame (100) and attached outside of the sanitary area (see Figure 4). Any material, especially woven material (Col. 2, lines 62-63) has a coefficient of friction above zero, therefore it can be said that any material, including the woven material Oats '513 to be slip resistant. The sheet of Oat's is capable of making direct contact with the floor as Figure

2 and 3 show that the sheet is not collected on a roll or other means that would prevent contact with the floor.

Regarding claims 2 and 10, Oats '513 teaches (see Figures 1-2) a collection device above frame (100).

Regarding claim 6, Oats '513 teaches (see Figure 2) the use of a hand-operated roller (136) for the collection device.

Regarding claim 7, Oats '513 teaches (Col. 2, lines 29-38; also see Figure 3) the use of an electrically operated roller (130') in the collection device.

Oats teaches all of the elements of the current invention as stated above except the dispensing device being disposed above the sanitary area.

Heppner teaches (see Figure 1) a roll of material (12) disposed above an area of use.

Wagner teaches (see Figures 1 and 2) that it is old and well known in the sanitary web art to provide web in rolls (23) outside of a sanitary area which comprises the patient bed (10).

It would have been obvious to have modified Oats to incorporate the teachings of Heppner and Wagner to place the dispenser for the sanitary covering material above and outside of the sanitary area. Doing so would allow for the easy replacement of sanitary material when the dispensing device ran out of sanitary material. Furthermore, the overall design of the dispensing device would decrease in complexity therefore making it easier to manufacture and fix.

7. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified device of Oats '513 in view of Kapiloff '003 (U.S Publication No. 2003/0116003).

The modified device of Oats '513 teaches all of the elements of the current invention except the use of a sensor for the automatic removal of the sanitary covering material whenever the user vacates the sanitary area.

Kapiloff '003 teaches the use of a force sensor to activate a drive motor thereby dispensing flexible sanitary material (Paragraph 33).

It would have obvious to have modified the modified device of Oats '513 to incorporate the teachings of Kapiloff '003 to create a device for the automatic dispensing of sanitary material. A force or weight sensor would detect the presence of a person on the sanitary covering material and could easily activate a motor to dispense new sanitary covering material once the force left thereby making the replacement of sanitary covering material automatic thereby requiring less user interaction.

### ***Response to Arguments***

8. Applicant's arguments filed 11/27/2006 have been fully considered but they are not persuasive.

Regarding using a material that adheres to a floor, applicant in the previous sentence (last 3 lines of page 1 of the detailed description) has already stated the equivalence of a standard sanitary covering found on medical tables and other plastics. Furthermore Draper et al (U.S Paten No. 4,993,091) teaches using a plastic film of

polyvinylidene chloride (Col. 3, lines 53-62; better known as Saran Wrap which is well known for its ability to adhere to contacted surfaces) as a sanitary covering material.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Oats '600 (U.S Patent No. 3,641,600), and Steiner (U.S Patent No. 1,877,610) teach devices for dispensing sanitary material. Schuler (U.S Patent No. 6,105,481), and Welch et al (U.S Patent No. 5,894,978) teach cutting devices of flexible material. Cooper (U.S Patent No. 3,315,676) teaches perforated sanitary material. Schreck (U.S Patent No. 6,038,708) teaches a stacking area for sanitary covering material. LaRose (U.S Patent No 6,363,555) teaches motorized movable web material. Bailey (U.S Publication No. 2004/0084609), Abbas et al (U.S Patent No. 5,265,296), Formon et al (U.S Patent No. 6,742,689), Jahrling (U.S Patent No. 6,161,814), and Kapiloff '620 (U.S Patent No. 6,892,620) teach sensor devices for use in sanitary applications. Blanchard (U.S Patent No. 2,088,686), and Mueller (U.S Patent No. 2,751,003) teach material dispensers located above the material working area.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. F. L./  
Examiner, Art Unit 3724  
12/5/2008

/Boyer D. Ashley/  
Supervisory Patent Examiner, Art Unit 3724